

808 KAR 10:390. Confidentially disclosed documents.

RELATES TO: KRS 292.500(17)

STATUTORY AUTHORITY: KRS 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.500(18) authorizes the commissioner to share information gained pursuant to an examination, investigation, filing, or other source, with a governmental agency, jurisdiction, or governmental or self-regulating organization or entity to the extent the commissioner determines that the sharing of information is or will be reasonably necessary or useful to the office or agency in carrying out its regulatory responsibilities. This administrative regulation establishes the requirements for release of confidential information pursuant to KRS 292.500(17).

Section 1. Pursuant to KRS 292.500(18), the commissioner may disclose confidential information if the requirements established in this section are met.

(1) The commissioner may disclose the content of an investigation, examination report, preliminary examination report or results, or other matter relating to the preceding, to another governmental or regulatory authority, including the U.S. Securities and Exchange Commission, the NASD, a state securities regulator, a state or federal criminal agency, or a criminal prosecutorial body, if:

(a) The agency receiving the information agrees in writing to hold it confidential; or

(b) The commissioner reasonably believes a legitimate governmental purpose is served by the disclosure regardless of the ability of the other agency to ensure the confidentiality of the disclosed material.

(2) The materials, documentation or other information referred to in subsection (1) of this section shall lose their confidential status upon the termination of an investigation or enforcement action where the information has been utilized by this or another regulatory body against or with respect to the entity or person that initially provided the materials to the office.

(3) Except as necessary for the office to enforce the provisions of KRS Chapter 292, a consumer complaint or other information relative to an investigation or examination shall remain confidential pursuant to the provisions of KRS 292.500(19) and exempt from public disclosure after the documents would otherwise lose their confidential status pursuant to the provisions of subsection (1) or (2) of this section, if the public disclosure would:

(a) Jeopardize the integrity of another active investigation, examination or proceeding;

(b) Reveal the name, address, telephone number, Social Security number, or other identifying number or information of a complainant, customer, or account holder;

(c) Disclose the identity of a confidential source;

(d) Disclose investigative techniques or procedures; or

(e) Reveal a trade secret.

(4) After five (5) years the commissioner may destroy discarded or obsolete materials, documentation or other information. (24 Ky.R. 2273; Am. 25 Ky.R. 101; eff. 6-25-98; TAm eff. 11-7-2012; Crt eff. 2-27-2020.)